

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)
)
Carriage of the Transmissions) CS Docket No. 98-120
of Digital Television Broadcast Stations)
)
Amendments to Part 76)
of the Commission's Rule)

COMMENTS OF NATIONAL BROADCASTING COMPANY, INC.

National Broadcasting Company, Inc. ("NBC") has been committed to providing Americans with the highest quality free over-the-air television for more than 50 years. As the new millennium dawns, NBC is enthusiastic about carrying that commitment into the digital age. NBC intends to provide our viewers with the best that digital television has to offer, including true high definition television and new and dynamic data services that will meet the demands of our viewing audience and the marketplace. NBC is committed to reaching the targets established by Congress under the 1997 Balanced Budget Act, which envisions a completed DTV build-out, and return of broadcasters' analog spectrum, by the year 2006. NBC has implemented a vigorous build-out schedule for the digital conversion of our owned and operated stations and has invested heavily in HDTV infrastructure and programming.

As recognized by the issues set forth in the above-captioned Notice of Proposed Rulemaking, one of the key factors in meeting the timetables established by Congress and

[Signature]
[Illegible text]

the FCC is the role played by cable during the transition period, as more than two-thirds of viewers currently watch broadcast television over cable. NBC takes no position in these comments as to whether cable systems should be required to carry DTV broadcast signals. However, as set forth below, NBC believes that a swift and successful transition to DTV requires that certain safeguards be adopted to ensure that any broadcast signal retransmitted by a cable system is carried on an equal footing with other cable programming channels.

Specifically, the broadcaster's DTV signal should be retransmitted without degradation or alteration and the cable operator should not be allowed to "down convert" the broadcaster's chosen digital format without the broadcaster's consent. To ensure that cable subscribers in a digital universe with hundreds of channels have easy access to any local DTV broadcast signals carried, cable systems should be required to transmit the DTV broadcast signals without altering or in any way limiting the effectiveness of the protocol or channel navigation instructions imbedded in the signal. In addition, specific nondiscriminatory safeguards should be adopted to ensure that DTV broadcast signals are not relegated to "digital oblivion" through electronic program guides controlled or owned by cable systems.

I. Any Broadcast Signal Carried Should be Retransmitted in the Broadcaster's Chosen Digital Format

As recognized by the Commission in this proceeding, in the analog world, Congress saw a need to make certain that cable systems protect the integrity of local broadcast signals, and that such channels be carried on an equal footing with other

channels being carried. Thus, cable operators are required to retransmit broadcast signals “without material degradation.”¹ The Commission was required to adopt regulations to ensure that the quality of the broadcast signal was “no less than that provided by the system for carriage of any other type of signal.”²

The same need to ensure equal treatment applies in the digital world, perhaps with even greater force. The broadcasters’ transition to digital television is essential to our future economic viability. As competing pay services continue to transition to digital services, broadcasters must also embrace the technical superiority of digital television to remain competitive with pay television. NBC intends to compete vigorously and to provide the highest quality digital signal that the marketplace demands – including high quality of high definition television. However, if a cable operator is permitted to “down convert” a broadcaster’s chosen digital format to a lower resolution – while maintaining that higher resolution format for another cable channel, the broadcaster’s ability to attract viewers through its high quality signal will be undermined.

Accordingly, for any broadcast signal which is carried, cable operators should be required to retransmit that signal “without material degradation” and should specifically be prohibited from “down converting” the broadcaster’s chosen digital format to a lower quality format without the broadcaster’s consent.³

¹ 47 U.S.C. §534(b)(4)(A).

² Id.

³ This limitation would not impact a cable operator’s ability to remodulate the DTV signal from 8VSB to QAM.

II. Safeguards Are Needed to Ensure Easy Access to the Broadcasters' DTV Signals

The digital television universe offers viewers the promise of the highest quality pictures, associated data services, interactivity and the convergence of technology with entertainment programming. It will also offer viewers hundreds of channels from which to choose. Channel numbers will be of secondary importance as viewers will be dependent on their remote control and the electronic on-screen program guide to navigate through this plethora of offerings:

In the future, you're going to have a very large percentage of cable and satellite TV households having (200-plus channel) digital TV services, and therefore they're going to need some kind of guide/navigation system. . . . To compare it to computers, the guides of the future will really be the first "home page" you see when you turn on the TV.⁴

It is expected that each cable system operator will offer its own proprietary on-screen electronic program guide to its subscribers. Given that most of the largest cable system operators also own an interest in many cable programming services,⁵ a "vertically integrated" service provider is naturally inclined to accord more favorable treatment to its own channels in its on-screen menus than it might give to other services, including DTV

⁴ Mark Riely, Media Research Group, *Variety*, July 20, 1998, p. 21.

⁵ As recognized by the Commission, cable system owners own 50% or more of 50 national cable programming networks. Annual Assessment of the Status of Competition in Markets for the Delivery of Video Programming, CS Docket No. 97-141, released January 13, 1998, at ¶ 159. This vertical integration involves primarily the largest cable system operators, as the 8 largest cable MSOs have a stake in all of the 68 vertically-integrated services. *Id.* at ¶161 TCI, the nation's largest MSO, holds ownership interest in 23% of all national cable programming networks, including Black Entertainment Network, Court TV, The Discovery Channel, fX, QVC and Starz! Time-Warner has an ownership interest in 12% of all national cable networks, including CNN, HBO, Cinemax, TBS and TNT. *Id.* at Table F-1.

broadcast stations. The Commission must adopt rules to guarantee that consumers have easy access to those broadcast signals carried by cable systems and to prohibit cable operators from marketing their own services, configuring their systems, or manipulating their on-screen program guides in such a way as to hinder consumers' access to broadcast signals or to disfavor unaffiliated programmers' services.

In the analog environment, Congress recognized the potential that cable operators might act in an anti-competitive manner by placing broadcast stations on an undesirable higher channel. As a result, Congress incorporated certain safeguards into the channel carriage requirements to ensure that those television signals that were carried could be easily located by the viewer. Thus, television stations were given a number of alternatives from which to select their channel placement.⁶

Similarly, when adopting rules governing the Open Video System -- which was heralded at the time as a competitive alternative to cable -- Congress recognized the need to include safeguards to guarantee that consumers have easy access to broadcast signals carried on OVS and to prohibit OVS operators from favoring their own services at the expense of unaffiliated programmers' services, including broadcast signals. Thus, Section 653(b)(1)(E) of the 1996 Telecommunications Act prohibits an OVS operator from discriminating in favor of an affiliated programmer in the way that material or information is provided to subscribers about available programming; requires an OVS operator to ensure that broadcasters are able to identify their programming and if such identification is carried as part of the programming signal, the OVS operator must transmit it without alteration; and

⁶ See 47 U.S. C. §534(b)(6); 47 C.F.R. §76.57.

prohibits an OVS operator from omitting television broadcast signals or other unaffiliated video programming services from any on-screen program guide or menu.⁷

Similar safeguards should be applied to carriage of a broadcasters' digital signal. First, in the digital environment, one important element to the viewers' ability to find a local digital broadcast channel – which will be transmitted on a channel number that is different from its well-known analog channel number – is the development of a protocol to link each station's DTV channel with its analog channel. Such a protocol has been developed by the Advanced Television Systems Committee and is called PSIP. This protocol associates the DTV signal with the station's NTSC channel so that, for example, the DTV programming of NBC4 (WRC-TV) in Washington will appear as 4.1, although it will be broadcast on Channel 48. Although broadcasters are not required to use PSIP, if a broadcaster chooses to use this protocol, or any other navigation tool that television sets recognize, cable systems should be required to transmit the broadcaster's DTV signal without altering or in any way limiting the effectiveness of the PSIP information or other DTV navigation instructions. Cable systems should make whatever adjustments are necessary to the navigation information it transmits to the digital television set to ensure that the PSIP information or other DTV navigation instructions can be decoded by the digital television set in the same way that these instructions would be decoded if the signal came over the air.

Second, the Commission should adopt rules similar to those applicable to OVS operators which prohibit discrimination in the design and configuration of electronic program guides or similar navigation devices. The rules should prohibit a cable operator

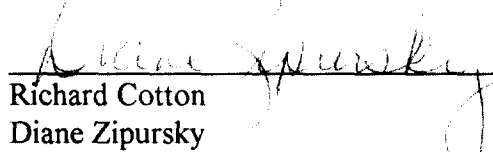
⁷ 47 U.S.C. §573(b)(1)(E).

from constructing its navigation device or programming guide to default automatically to an affiliated service, such as the channel that advertises the operator's owned services, each time a television set is turned on. Moreover, the rules should provide that a consumer should be able to access the broadcast channels without complex interaction with an electronic guide or navigation device. Consumers should not have to scroll through several screens or make more than one click of a mouse or remote control before they can identify and access their local broadcast stations.

Conclusion

The transition to digital television is critically important to the future of broadcasting and to television viewers. Most of the essential public policy work needed to ensure that broadcasters can transmit DTV signals successfully has been accomplished. The Commission must now implement limited measures to ensure that this transition to digital is not undermined by a cable operator's potentially discriminatory treatment of the digital broadcast signals which are carried.

Respectfully submitted,



Richard Cotton
Diane Zipursky
National Broadcasting Company, Inc.
1299 Pennsylvania Ave., N.W.
Washington, D.C. 20004

October 13, 1998